

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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SYED JAVED and ANEELA WASIF,

Plaintiffs,

-against-

Case No. 15-cv-7424 (FB)(SLT)

MEDGAR EVERS COLLEGE OF THE
CITY UNIVERSITY OF NEW YORK;
JAMES HAGGARD, Deputy CIO;
CLAUDIA COLBERT as former Chief
Information Officer; EDI RUIZ, as current
Chief Information Officer; TANYA
ISAACS, Director of Human Resources
being sued Individually as employees of
defendant MEDGAR EVERS COLLEGE
OF THE CITY UNIVERSITY OF NEW
YORK,

Defendants.

**DECLARATION IN SUPPORT OF
DEFENDANTS' MOTION TO
DISMISS PLAINTIFFS' SECOND
AMENDED COMPLAINT**

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MARK E. KLEIN, pursuant to 28 U.S.C. § 1746, declares under penalty of perjury as follows:

1. I am an attorney admitted to practice before this Court and am an Assistant Attorney General in the Office of the Attorney General of the State of New York, attorney for defendants in this action.

2. I submit this declaration in support of defendants' motion for an order, pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6), dismissing plaintiffs' Second Amended Complaint ("SAC") in its entirety and with prejudice.

3. Annexed hereto are the following documents submitted in support of defendants' motion:

(i) plaintiffs' SAC, filed October 14, 2016, a copy of which is annexed hereto as Exhibit A;

(ii) 2006-2009 Agreement covering Clerical, Administrative and Professional Employees of the Classified Service of the City University of New York, and 2007-2010 Agreement covering The City University of New York and The New York State Nurses Association, White Collar Contract, a copy of which is annexed hereto as Exhibit B;

(iii) plaintiffs' first Amended Complaint, filed May 27, 2016, a copy of which is annexed hereto as Exhibit C;

(iv) IT Security Campus Site Visit Report prepared by CUNY Central Computing and Information Services, a copy of which is annexed hereto as Exhibit D; and

(v) Affidavit of Syed W. Javed, sworn to September 10, 2013, a copy of which is annexed hereto as Exhibit E.

4. At the deposition of plaintiff Syed Javed in this case, which I took on November 17, 2016, Mr. Javed identified Exhibit E as the affidavit that he submitted in support of the discrimination claim filed by another CUNY employee, Mohammad Nematollahi, as alleged in paragraph 27 of plaintiffs' SAC.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in New York, New York, this 10th day of January, 2017.

/s/ Mark E. Klein

MARK E. KLEIN